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Remarks

I couldn't find an appropriate Fee Transmittal Form so I am assuming that this will serve if I check the Fee Transmittal Form box. I have also enclosed a check for $250 for the Appeal Brief Submission as a small entity.

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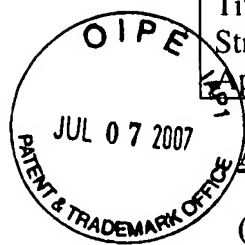I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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Appeal Brief

(c)(1)(i) *Real party in interest* – Marc T. Burton Sewell

(c)(1)(ii) *Related appeals and interferences* – none.

(c)(1)(iii) *Status of claims*- Claims 1 through 20 have been rejected and are being appealed.

(c)(1)(iv) *Status of amendments*- No amendments filed since final rejection.

(c)(1)(vi) *Grounds of rejection to be reviewed on appeal* – I am appealing:
1. Claim Rejection under 35 USC – 102
    1.1. Claim 1
    1.2. Claim 14
    1.3. Claim 15
    1.4. Claim 16
    1.5. Claim 17
    1.6. Claim 20
    1.7. Claim 19
2. Claim Rejection under 35 USC 112, first paragraph
    2.1. Claim 19
    2.2. Claim 8 & 9
    2.3. Claim 20
3. Claim Rejection under 35 USC 112, second paragraph
    3.1. Claims 8 & 9
    3.2. Claim 20
4. Claim Rejection under 35 USC – 103(a)
    4.1. Claim 18
    4.2. Claim 2
    4.3. Claim 3
    4.4. Claim 4
    4.5. Claim 5
    4.6. Claims 6 & 7
    4.7. Claims 8,9 and 11-13
    4.8. Claim 10

I will discuss each claim rejection in the *Argument* section below but as a concise overview, I present the following general reasons why these claim rejections are incorrect and why I believe my patent application did not get approved or receive a non-final status:

I. The patent should be approved because none of the presented prior arts are valid. For example, my claim 1 describes a graphical element comprised of 5 elements. This claim is not represented in the prior arts and is unique because:

    a. No single prior art presented has all 5 elements.

    b. The examiners have picked pieces of prior arts to address the elements but have not shown how these pieces could be combined, that they can be, or that was their intent.

    c. None of the prior arts have my element (e) or (b)

    d. The reviewers give multiple meanings to individual prior art elements

    e. All of the individual prior art elements combined don't represent my claim 1 neither graphically nor semantically (just because a hammer and a pizza cutter have wooden handles, doesn't mean that a pizza cutter is a prior art for pounding nails).

II. The Final action should have been non-final. I made changes to the claims to address prior objections; the changes were acknowledged by the reviewer; and they were not refuted. New arguments were raised by the reviewer with no opportunity to rebut. Also, arguments that I made when the action was non-final were ignored.

III. The reviewers are not accepting meanings of common language, are rejecting basically understood concepts, creating new definitions that are incorrect, and not acknowledging that they are defining one entity in several different ways. There are circular objections, conflicting objections, and semantic extrapolations of vocabulary that are nonsensical. They are also disagreeing with each other on definitions and their own requested changes.

As an example, a key requirement of my claim 1(e) and claim 20 is that the graphical container is subordinate. Nochur does not have any concept of subordinate shapes or containers – doesn't use any aliases or define the concept at all. The reviews make an incorrect leap describing one of Nochur's peer windows as a subordinate graphical element. Any shape in Nochur is a peer shape (or window) – logically, technically, visually, and physically. I have presented numerous reasons why this is so and described subordinate as a parent-child (dependant) relationship (as suggested by a reviewer). In the snippet below, the reviewer is addressing this by redefining and twisting the term *graphical* to be a synonym for *parent-child relationship* and thus, a synonym for subordinate.

'Also note claim 20 does not require the graphical container to be displayed on a display device graphically, thus, the use of the term "graphical" is broadly used and is even met by any internal representation of parent child relationships'

This argument is new in the final action and so ludicrous on many levels that it

alone should justify the appeal. This is described by the reviewer as "explicitly teaches". Hardly explicit and not even implicit. It is just incoherent gibberish. This type of argument permeates the reviewers' comments, rejections, and objections. When I expose them, I am told my arguments "are not convincing".

I have even asked for the reviewer to provide a word or phrase that they prefer to subordinate, parent-child, and controlled by its parent but the request was ignored.

IV. The reviewer ignored changes that he requested. For example in the Claim 19 rejection under 35 USC -102(b), the reviewer previously defined *can* as *optional* because I didn't say *must*. Therefore, the requirements of my claim were not considered. I changed *can* to *must* and the reviewer did not update his rejection in the final action to reflect the change. Since the requirements were no longer "optional" and the prior art did not have those functions, the rejection should have been removed and that claim should have been allowed.

V. Reviewers are not responding to or are providing incomplete responses to my remarks to their objections.

VI. The reviewer was not allotted sufficient time to process my RCE and answer questions. The reviewer did not answer phone calls, emails, or requests for information in my responses. The 30 minute interview was wasted on his questions. When I asked questions, he said to wait until he had a chance to review the documentation. He never called and I never had the opportunity to ask questions or explain my position. I offered web demos, free downloads of the software that implements my invention, and offered to travel to DC to present in person but he didn't answer.

VII. I also requested numerous times to all the examiners and their management that the examiner write the claims. Since the first examiner said it was patentable and only a matter of vocabulary, it is my understanding, based on MPEP 707.07(j), that the examiner should have written my claims. Had that happened, we wouldn't be here and wasted time and extra fees. I would still like for that to be done. It would be less effort for all of us. Most of the objections centered on the words *can* (vs. *must*) and *subordinate*. The one phrase that the first examiner changed (*all shapes* to *infinitely, variably-shaped at all points*) was objected to by future reviewers.

VIII. It appears that I am unable to properly address concerns in writing so I will be requesting an Oral Hearing before the Board of Patent Appeals. When I presented the invention to the first reviewer in person, he understood the claims and said it was patentable with vocabulary fixes which I made. I believe a face-2-face is the way to resolve this. I would also like to bring in experts in Visio, software architecture, modeling, and "enablement" to quickly refute some of the glaring mistakes the examiners have made. I will name the names when I get a date for the

oral hearing and can verify schedules. It is my understanding that, after I receive a response to this document, I must submit form PTO/SB/32. Please correct me if that is incorrect.

(c)(1)(vii) *Argument* –

1. Claim Rejection under 35 USC – 102
    1.1. Claim 1 (pages 13- 17) – Anticipated by Nochur et al (5,835,758)
        1.1.1. The problem with Nochur as a prior art begins with the objectives of the two inventions. The objective of my invention is "business communication" and Nochur's objective is to "create applications". Nochur uses *applications* to mean *computer programs* and his unique-ness is that they are domain-specific applications. The intent of my invention is the documentation of <u>all business communication</u> including, for example, strategy which is not covered at all by Nochur. The "domain specific" language of Nochur is commonly used today to discuss the generating of software applications specific to a domain. Thus, when I say in claim 1 that "said element is used to visually represent a noun or a verb", that precludes Nochur because Nochur "elements" represent code segments or applications. The stated target audience for Nochur is programmers or users creating applications. The stated audience for my invention is "managers, planners, consultants, and strategists". Just because a hammer and a pizza cutter have wooden handles, doesn't mean that a pizza cutter is a prior art for pounding nails.
        1.1.2. The reviewers' assertion that "Nochur <u>explicitly</u> teaches" my claim 1 is outrageously false. Implicitly teaches would even be a big stretch but nowhere in the Nochur is it explicit. No text in the Office Action substantiates this explicit teaching nor is there any text in the Nochur patent. Nochur is not even claiming a unique graphical element. Any user of graphical tools will say that the Nochur tool and graphical elements are ordinary and not comparable to my claim 1.
        1.1.3. My claim 1 is comprised of 5 "automatically controlled elements" as described in claim 1 (a)-(e). The following details why the reviewers' assertion that all 5 elements are covered by Nochur is not correct and the rejection should be removed and the claim should be allowed:
            1.1.3.1. regarding my claim 1(a), the reviewers refer to Nochur Figure 6 as satisfying claim 1(a). However, the reviewers also demonstrate that the user can create new symbols with new meaning by invoking a symbol generator. Thus, Nochur does not satisfy my 1(a) which requires <u>predefined</u> shapes with <u>predefined</u> meaning. Nochur also allows new link types and symbols to be created and thus they are not <u>predefined</u> with <u>predefined meaning</u> as claim 1(a) requires.
            1.1.3.2. regarding my claim 1(b), Nochur elements do not have predefined icons representing nouns. The reviewers try to represent the

adornments in Nochur as satisfying this requirement but they also say those same adornments satisfy claim 1(d). The reviewers even reference adornments as "icons or letter adornments". So the Nochur icons actually align more with claim 1(d) adornments and there isn't anything in Nochur to satisfy 1(b). A look at any examples from both inventions would show that.

1.1.3.3. regarding my claim1(c), Nochur does have variable text in the element only

1.1.3.4. regarding my claim1(d), Nochur does have adornments but the reviewers also use the adornments to satisfy claim 1(b) and claim 1(e). It is incorrect of the reviewers to overload the meaning of this single element to address multiple of my elements.

1.1.3.5. regarding claim 1(e), the reviewers are claiming that popup windows are equivalent to my "attached, subordinate graphical container for additional elements". This is incorrect because they are not attached, subordinate, automatically controlled, or graphical containers for additional elements and thus do not satisfy 1(e):

    1.1.3.5.1. Nochur has notes and annotations (documents) that are linked to by clicking on icons or an indicator in the main shape. This is similar to an email with an attachment and an icon to show that it exists and to be clicked upon to open the attachment. These are not <u>subordinate</u> to the main shape, but merely linked to by the main shape. Nochur even calls them links.

    1.1.3.5.2. The Nochur notes and documents are independent entities not a single subordinate container shape. They are even referred to as distinct items. So Nochur does not satisfy the single requirement of 1(e).

    1.1.3.5.3. The Nochur documents exist physically as separate, independent documents on disk. This is demonstrated by Figure 8 element 82 which shows their filenames. Thus they can be accessed independently without the main shape and are not <u>subordinate to</u> or <u>controlled by</u> the main shape.

    1.1.3.5.4. Nochur's attached documents are not <u>controlled by</u> the main shape. They are independent documents that are manipulated and edited by separate mechanisms. For example, the text in the document is manipulated by an independent editor not the controller for the shape. This is evidenced by the fact that the text can only be changed by first opening the document. The text in my subordinate shapes is manipulated by the same inspector that controls the parent shape and can be edited whether the subordinate shape is visible or not. Nothing in the subordinate shape can be altered except through the parent shape.

    1.1.3.5.5. Nochur's attached documents are not <u>graphical elements</u>. They are opened by clicking on a graphical element – an icon.

1.1.3.5.6. Nochur's attached documents are not <u>shapes</u> just as an attached document to an email is not considered a graphical element or shape. They are just documents.

1.1.3.5.7. The Nochur attached document is not a <u>container</u> shape nor does Nochur reference it in that way.

1.1.3.5.8. Nochur's attached documents are not <u>connected to</u> the main shape. They are pop-ups that may or may not touch the main shape.

1.2. Claim 14 (page 17) – Anticipated by Nochur et al (5,835,758)
The reviewers' claim that Nochur is prior art is erroneous so the rejection should be removed and the claim allowed for the following reasons:

1.2.1. This is a dependant claim of claim 1 for which Nochur has no equivalent.

1.2.2. The reviewers' claim that Nochur "line adornments" are equivalent to a component adornment for my claim 1 shape. This is not true and it doesn't even make any sense. The reviewer is redefining relationship as element.

1.2.3. Anyway, Claim 14 requires an adornment for <u>components</u> which Nochur has no equivalent either conceptually or graphically.

1.2.4. The reviewers state that these elements may contain their own text but doesn't say that they can also contain icons which is required by my claim 14.

1.3. Claim 15(page 17-18) – Anticipated by Nochur et al (5,835,758)
The reviewers' claim that Nochur is prior art is erroneous so the rejection should be removed and the claim allowed for the following reasons:

1.3.1. This is a dependant claim of claim 1 for which Nochur has no equivalent.

1.3.2. The reviewers present one example of multiple windows but there isn't an adornment specifically for plural or collections nor does Nochur have that concept.

1.3.3. The M that the reviewers claim is an adornment for plural or collections is actually an indicator for one or more maps and doesn't indicate plural or collections at all. It indicates maps.

1.4. Claim 16(page 18) – Anticipated by Nochur et al (5,835,758)
The reviewers' claim that Nochur is prior art is erroneous so the rejection should be removed and the claim allowed for the following reasons:

1.4.1. This is a dependant claim of claim 1 for which Nochur has no equivalent.

1.4.2. Nochur has no concept of a "specification" and thus cannot generate a specification document.

1.4.3. Just because Nochur generates reports, doesn't mean it can generate a specification. Hammer and pizza cutter again.

1.5. Claim 17(page 18-19) – Anticipated by Nochur et al (5,835,758)
The reviewers' claim that Nochur is prior art is erroneous so the rejection should be removed and the claim allowed for the following reasons:

1.5.1. This is a dependant claim of claim 1 for which Nochur has no equivalent.

1.5.2. Nochur has no concept of identity.

1.5.3. The reviewers mention numerous data attributes such as class, type, priority, ... but none of these are identity nor is identity an attribute at all.

1.5.4. The reviewers say that an identity attribute can be added to a Nochur item but again identity is not an attribute, it is systemic and internal. This is a basic concept that one knowledgeable in software design would understand.

1.6. Claim 20 (page 19-20) – Anticipated by Nochur et al (5,835,758)

The reviewers' claim that Nochur is prior art is erroneous so the rejection should be removed and the claim allowed for the following reasons:

1.6.1. The reviewers are not accepting the commonly accepted definitions of subordinate, container, attachment, or graphical. I will explain the language in section 1.6.3 but they have already rejected this explanation with the same vocabulary errors. They are also interpreting *graphical* and *connected* as logical instead of physical for which there is no basis to do since the invention is talking about a visual tool and visual elements. Please challenge the reviewers to search Nochur for *container* or *subordinate* and have them actually put their fingers on some of these items. I will bring experts to the oral review to go over this commonly understood vocabulary. It is difficult to make an argument when the reviewers can redefine words and concepts.

1.6.2. Please also challenge the reviewers to compare Nochur Figures 7 & 8 and my Figure 15 and explain how they are the same or even close and have them show the specific commonalities.

1.6.3. The reviewers are claiming that Nochur popup windows are equivalent to my "attached, subordinate container shape that is automatically connected to and controlled by a parent shape or graphical element". This is incorrect because they are not containers, subordinate, connected, automatically connected, contain graphics, or controlled by a parent shape or graphical element:

1.6.3.1. Nochur has notes and annotations (documents) that are linked to by clicking on icons or an indicator in the main shape. This is similar to an email with an attachment and an icon to show that it exists and to be clicked upon to open the attachment. These are not subordinate to the main shape, but merely linked to by the main shape. Nochur even calls them links. The reviewers even contradict themselves on page 19 where they quote Nochur, "Notes and annotations can be added in a separate box ..." Separate does not denote connected or subordinate but rather the opposite.

1.6.3.2. The Nochur notes and documents are independent entities not a single subordinate container shape. They are even referred to as distinct items.

1.6.3.3. The Nochur documents exist physically as separate, independent documents on disk. This is demonstrated by Figure 8 element 82 which shows their filenames. Thus they can be accessed independently without the main shape and are not subordinate to or controlled by the parent shape.

1.6.3.4. Nochur's attached documents are not <u>controlled by</u> the main shape. They are independent documents that are manipulated and edited by separate mechanisms. For example, the text in the document is manipulated by an independent editor not the controller for the shape. This is evidenced by the fact that the text can only be changed by first opening the document. The text in my subordinate shape is manipulated by the same inspector that controls the parent shape and can be edited whether the subordinate shape is visible or not. Nothing in the subordinate shape can be altered except through the parent shape.

1.6.3.5. Nochur's attached documents are not <u>graphical elements</u>. They are opened by clicking on a graphical element – an icon or adornment.

1.6.3.6. Nochur's attached documents are not <u>shapes</u> just as an attached document to an email is not considered a graphical element or shape. They are just documents.

1.6.3.7. The Nochur attached document is not a <u>container</u> shape nor does Nochur reference it in that way.

1.6.3.8. Nochur's attached documents are not <u>connected to</u> the main shape. They are pop-ups that may or may not touch the main shape.

1.6.4. The reviewers, on page 20, list some orthogonal Nochur references and then say "Thus, the attached containers are considered subordinate graphical elements" . The references don't demonstrate anything about subordinate shapes. This is a non sequitur. This same discussion tries to relate map icons to attachment points. Icons are not attach points in Nochor or in my claim 20. In Nochur, there is no concept of attach point since the windows are not attached but are floating. The attach point in claim 20 is purely a graphical "pin" where the container is attached physically to the shape. This is obvious when looking at my Figure 10.

1.6.5. There is an error in claim 20. It should read *can be* instead of *are* positioned. I will fix this should I be given a chance.

1.6.6. There is also an erroneous period at the end of claim 20(a) that was mistakenly added during the last amendment. It should be clear from the text and the formatting that claim 20 is comprised of an (a) and a (b). I will fix this should I be given the opportunity.

1.7. Claim 19 (page 21) – Anticipated by Visio 2000 Standard Edition
The reviewers erroneously claim Visio as prior art so the rejection should be removed and the claim allowed for the following reasons:

1.7.1. The dashed line that the reviewers' reference from the Visio User Guide is not a graphical element or shape in Visio but rather a temporary visual selection indicator. It is not considered a shape or an element in its own right. It is not visible unless the group is selected. No Visio user would confuse the selection indicator for a shape in the tool.

1.7.2. The dashed line has no border nor can it have a border and thus is not <u>comprised of a border</u> as required by my claim.

1.7.3. The reviewer did not update this rejection based on my amended claims. I changed <u>can</u> be infinitely, variably-shaped at all points to <u>must be able to be</u> and I changed <u>may</u> have an attached, subordinate container to <u>must be able to have</u>. This was to address the reviewers' complaint which defined *can* and *may* to mean *optional* (to the reviewers), and thus my invention did not distinguish itself from Visio since those items were optional. Since the claim now requires those two items and the Visio prior art does not have those two items, the claim distinguishes itself from Visio and the rejection should be removed and claim 19 should be allowed.

On page 2, the reviewer argues that the changing "can" to "must be able to", as regards to infinitely, variably-shaped, is not persuasive since I didn't show a circle in my Figure 10 and only showed rectangular shaped borders. Firstly, Figure 10 does not show rectangular borders but rather shows a "panhandle" shape with six sides with rounded corners. The Visio selection indicator cannot be made into this shape nor would anyone ever consider doing it. That alone should be enough to show that the Visio selection indicator is not prior art. Secondly, a circle is just one of the infinite shapes covered by claim 19's "infinitely, variably-shaped' so would I have to present an infinite number of examples to satisfy the reviewers' objection. The reviewers' arguments are ludicrous. Visio's dashed line is always a rectangle, by Visio's definition, and therefore is not a valid prior art for my claim 19.

The reviewer never disputes the "can" change for an attached subordinate graphical container which the Visio selection indicator doesn't have so this alone should distinguish my claim 19 from Visio and claim 19 should be allowed.

1.7.4. The dashed line is always a rectangle and thus is not comprised of a border of <u>any</u> shape as claim requires.

1.7.5. Visio does not refer to the dotted line as a shape or graphical element. It refers the group of shapes but not the dotted line that surrounds the group. This is further demonstrated by the fact that any action done to the Visio group is done to the shapes within the group but the dotted line does not change. For example, if the color is changed, the shapes within the group change but the dotted line around the shapes do not. Contrast this with my group shape. If an action it taken on my group shape, it changes but the shapes within the group do not change. So, if my group shape border is set to red, its border turns red while the shapes within the group stay blue as in.

1.7.6. The dashed line will appear when only one shape, no group, is selected thus showing it is not specifically related to groups.

1.7.7. The dashed line can not exist by itself as my grouping shape can and thus it is not a graphical element or entity. The empty group shape example in my Figure 5 cannot be accomplished by the Visio selection indicator.

1.7.8. The shape of the dashed line is determined by the positions of the items being grouped and thus its shape can not be shaped at all.

1.7.9. The dashed line does not and cannot have <u>an attached, subordinate graphical container</u> as my grouping shape. Figure 5 in the Drawings Section of my patent application shows the subordinate container with the text "fence, group" in it. Visio's dashed line is not capable of this.

2. Claim Rejection under 35 USC 112, first paragraph
   2.1. Claim 19 (Page 10)

   2.1.1. This rejection is new and should have caused the action to be non-final. On page 3, the reviewer says that the change from *can* to *must be able to* caused this new rejection but does not say why. The arguments starting on Page 2 discuss circles and complex shapes which are new arguments not stated in the prior office action and are not related to the change.

   The change was made because the reviewers' claim 19 rejection under 35 USC -102(b) complained that "the claim does not state that these limitations must be included, only that they can and may be included." This means that they are optional and therefore not required.. My changing *can* to *must* simply and only changes the optional to required and has no other implications. Therefore, this rejection is new and the office action should have been non-final.

   2.1.2. The dashed line in Visio is always a rectangle and thus is not comprised of a border of <u>any</u> shape as claim requires. The reviewer argues that since I didn't show a circle in my Figure 10 and only showed rectangular shaped borders, I didn't "have possession of borders that are something other than rectangular". Firstly, Figure 10 does not show rectangular borders but rather shows a "panhandle" shape with six sides with rounded corners. This is clearly a complex shape and clearly not rectangular which usually means four sides. Why does the reviewer say this does not "convincingly" describe a border having a complex shape? How many sides would be needed to be a complex shape? The Visio selection indicator cannot be made into the shape in Figure 10 nor would anyone ever consider doing it. That alone should be enough to show that the Visio selection indicator is not prior art. Secondly, a circle is just one of the infinite shapes covered by claim 19's "infinitely, variably-shaped' shapes so would I have to present an infinite number of examples to satisfy the reviewers' objection? The reviewers' arguments are ludicrous. Thirdly, the first reviewer, who left the patent office, suggested "infinitely, variably-shaped at all points" because he said that my original "any shape".

   Therefore, the rejection should be removed and claim 19 should be allowed. I would be glad to use any language that the patent office thinks best

describes all shapes and draw as many examples as the patent office will
accept as infinite.

2.2. Claims 8 & 9 (Page 11)

    2.2.1. In terms of the enablement requirement, Claims 8 and 9 describe
predefined shapes with the predefined meanings of rule, process, security,
note, design point, initiative, and issue. The only enablement that is specific
to theses predefined objects is their graphical shape which is shown in the
figures. Any graphic artist can replicate those shapes.

    2.2.2. The security shape in the figures is labeled "access" for access security.

    2.2.3. On page 4, the reviewer rejects this answer saying that "the claims are
claiming more than just shapes". No they are not. Just shapes.

2.3. Claim 20 (Page 11-12)

    2.3.1. As to the enablement problem with claim 20, "variable amount" simply
means "any amount desired by the user" just as a word processor document
can contain a variable amount of text. This is a straightforward concept for
any programmer and there are numerous examples in the figures to provide
test cases.

    2.3.2. As to the enablement problems with claim 20, "predetermined,
appropriate" simply means "specified by the tool creator and not by the tool
user". Appropriate means visually appropriate and is determined by the tool
creator. The salient requirement here is that it is the tool creator not user that
determines this. I will make a change to claim 20 to say visually appropriate
should I get the opportunity.

3. Claim Rejection under 35 USC 112, second paragraph

3.1. Claims 8 & 9 (Page 12)

    3.1.1. As to the indefinite requirement, Claims 8 and 9 are clear. They are just
what they say: rule, process, security, note, design point, initiative, and issue
shapes. Just shapes. The reviewer seems to think there is more to it but no,
just shapes. What might be the confusion is the difference between building
the graphical elements of the tool being claimed and the use of the tool by
end users. For example, building a CAD package and using it to design a
house are different skills. As I understand it, the patent doesn't have to show
how to design a house. That requires a specific college education. In my
case, I don't have to teach end users how to use the tool to model an airline
pricing strategy, I just have to teach the programmer how to build the tool
and that is just showing the shape and a graphic artist copies it.

3.2. Claim 20 (Page 12)

    3.2.1. As to the indefinite problem with claim 20, "predetermined, appropriate"
simply means "specified by the tool creator and not by the tool user".
Appropriate means visually appropriate and is determined by the tool
creator. The salient requirement here is that it is the tool creator not user that
determines this. I will make a change to claim 20 to say visually appropriate
should I get the opportunity.

  3.2.2. The recommendation to clarify "its" is a good one and I will make it should I get the opportunity.

  3.2.3. There is also an erroneous period at the end of claim 20(a) that was mistakenly added during the last amendment. It should be clear from the text and the formatting that claim 20 is comprised of an (a) and a (b). I will fix this should I be given the opportunity.

4. Claim Rejection under 35 USC – 103(a)

 4.1. Claim 18 (Page 22-23)

  The rejection under 35 USC – 103(a) is not valid and claim 18 should be allowed because:

  4.1.1. This is a dependant claim of claim 1 for which Nochur has no equivalent.

  4.1.2. The reviewer discusses Nochur's reporting capability and the expectation that report data could be sent to a word processor. This is not what Claim 18 claims. Claim 18 is a semantic interface between my tool and other business and software tools. I did have examples but the first examiner suggested I remove them.

 4.2. Claim 2 (page 23-24)

  4.2.1. Claim 2 was amended to require <u>both</u> icons and text as recommended by the reviewer. Nochur cannot place icons in the element shapes. The reviewer recognized the change but did not remove the objection. It should be removed and the claim allowed.

  4.2.2. This is a dependant claim of claim 1 for which Nochur has no equivalent.

  4.2.3. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

 4.3. Claim 3 (page 24)

  4.3.1. In my remarks to the previous non-final action, I had asked for clarification of the reviewer's rejection. I did not receive any clarification. If "the rationale of claim 1 is incorporated herein" means that the reviewers' rejection rationale for claim 1 is the same for this claim, then my objections to claim 1 rejections are incorporated herein.

  4.3.2. Nochur does not contain any hierarchy indication or have the concept of a hierarchy. Same is true of location, behaviors, or responsibilities. This is just another example of the reviewers using one type of adornment to be equivalent to many disparate elements in my claims.

  4.3.3. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

 4.4. Claim 4 (page 24)

  4.4.1. In my remarks to the previous non-final action, I had asked for clarification of the reviewer's rejection. I did not receive any clarification. If "the rationale of claim 1 is incorporated herein" means that the reviewers' rejection rationale for claim 1 is the same for this claim, then my objections to claim 1 rejections are incorporated herein.

  4.4.2. This dependant claim states that the objects can be presented graphically or flattened into a text format. Nochur does not have this feature.

4.4.3. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

4.5. Claim 5 (page 24)

4.5.1. In my remarks to the previous non-final action, I had asked for clarification of the reviewer's rejection. I did not receive any clarification. If "the rationale of claim 1 is incorporated herein" means that the reviewers' rejection rationale for claim 1 is the same for this claim, then my objections to claim 1 rejections are incorporated herein.

4.5.2. The reviewer states that the Nochur adornments sequence, hierarchy, and cause-effect relationships are verbs which they are not. Flow, in this case, is not a verb either. Besides, Nochur had no intention to show relationships as verbs.

4.5.3. In response to my verb objection, the reviewer (page 9-10) gives other examples as verbs but these too are not verbs. Plan could be a verb but is used in the reference as a noun.

4.5.4. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

4.6. Claims 6 & 7 (page 24-25)

4.6.1. In my remarks to the previous non-final action, I had asked for clarification of the reviewer's rejection. I did not receive any clarification. If "the rationale of claim 1 is incorporated herein" means that the reviewers' rejection rationale for claim 1 is the same for this claim, then my objections to claim 1 rejections are incorporated herein.

4.6.2. The reviewers' reference to the N or notebook adornment is not relevant. As the reviewer stated, it is a visual clue for an attached note but it is not a "selected portion of the object specification" displayed as an adornment as required by claims 6 & 7. The same is true of the two other references on page 25

4.6.3. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

4.7. Claims 8,9 and 11-13 (page 25-26)

4.7.1. 1. This objection is very confusing. It states that "this embodiment enables users to create applications that are specific to the domain of interest to them" and goes on to describe domain examples. My claims 1, 8, 9, 11, and 13 have nothing to do with creating applications. For that matter no part of my invention claims the ability to create applications. The objection then seems to say that a Nochur element (an application) is equivalent to my claim 1 graphical element and then extrapolates that to Nochur symbols. This argument is actually part of my argument that Nochur symbols represent applications and not nouns. The rest is not relevant to my describing predefined noun types. I need much more clarification to make any sense of this one. I had asked for this clarification in my previous remarks to the non-final action and did not get an answer.

4.7.2. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

4.8. Claim 10 (page 26)

4.8.1. This objection is very confusing. It is referencing a "link generator module" used for "defining line and arrow segments" and things you can do with these "link types". The fact that these "link types" can be put in a hierarchy or that they have adornments is not relevant to my claim 1 graphic element having process and hierarchy identity adornments. I need much more clarification to make any sense of this one. I had asked for this clarification in my previous remarks to the non-final action and did not get an answer.

4.8.2. The simple fact is that Nochur does not have any adornments to identify process and hierarchy shapes. Nochur doesn't even have adornments to indicate a process or hierarchy shape.

4.8.3. So Nochur is not appropriate and the rejection should be removed and the claim allowed.

(c)(1)(viii) *Claims appendix-* This listing of claims is the last listing sent with my response that was rejected as final. I have retained the amendment markings that were submitted with my last response.

1. (Current amended) An automated graphical element, of a graphical tool, that is manipulated and altered primarily by an associated user interface, wherein said element is used to visually represent a noun or verb, and where said element is comprised of the following automatically controlled elements:

    (a) a plurality of predefined simple and complex shapes with predefined meaning

    (b) a plurality of predefined icons <u>representing the nouns</u>

    (c) variable text

    (d) a plurality of predefined adornments with predefined meaning

    (e) an attached, subordinate graphical container for additional <u>text and graphical</u> elements.

2. (Current amended) The graphical element of claim 1 wherein said icons, and/or text, <u>or both</u> can be placed within said shapes, which will then orient to the size and shape of said icon, and which are then named objects, which are semantically equivalent to

simple and compound nouns.

3. (Original) The objects of claim 2 are modified with said adornments, colors, and text, which are semantically equivalent to adjectives that describe, limit, and/or indicate hierarchy, location, behaviors, and/or responsibilities.

4. (Original) The objects of claim 3 wherein said objects are allowed to be presented in graphical or text formats.

5. (Original) The objects of claim 3 are linked with said graphical elements, which are semantically representative of a plurality of verbs.

6. (Original) The objects of claim 3 wherein structured input areas are provided for the detailed specification of the object.

7. (Original) The objects of claim 3 wherein selected portions of the object specification are allowed to be displayed in a plurality of adornments to the shape.

8. (Original) The objects of claim 3 wherein there is a plurality of rule, process, and security object shapes.

9. (Original) The objects of claim 3 wherein there is a plurality of note, design point, initiative, and issue object shapes.

10. (Original) The objects of claim 3 wherein there is a plurality of adornments to identify process and hierarchy object shapes.

11. (Original) The objects of claim 3 wherein there is a plurality of user interface object shapes.

12. (Original) The objects of claim 3 wherein there is a plurality of domain object shapes.

13. (Original) The objects of claim 3 wherein there is a plurality of technology object shapes.

14. (Original) The graphical element of claim 1 wherein there is a plurality of adornments for components that contain their own icon or text.

15. (Original) The graphical element of claim 1 wherein there is an adornment to indicate plural or collections.

16. (Original) The graphical element of claim 1 wherein specification documents are automatically generated from object information.

17. (Original) The graphical element of claim 1 wherein the identity of notation objects and relationships are accessed and managed.

18. (Original) The graphical element of claim 1 wherein output is provided to business and software construction tools.

19. (Current amended) A grouping graphical element used to enclose selected shapes and said element comprising a border of any shape that ~~can~~ must be able to be infinitely, variably-shaped at all points and said element ~~may~~ must be able to have an attached, subordinate graphical container for additional elements.

20. (Current amended) A subordinate graphical container shape that is automatically connected to and controlled by ~~a~~ its parent shape or graphical element, comprising:
   (a) a variable amount of text, ~~and/or~~ graphics, or both.

(b) an attachment point that can be positioned anywhere around the parent shape only
at predetermined, appropriate points in the vicinity closest to where the user
indicates.

(c)(1)(ix) *Evidence appendix* – The reviewers used a 100+ page copy of a Visio Manual which I
don't reference so I hope you don't need it. The reviewers also reference Nochur et al (US Patent
No. 5,835,758) which they did not send but sent me to the USPTO website. I also didn't include
the Final Office Action since I hope you have a copy and I wrote all over mine before I noticed
this section in the appeal (sorry).

The following references are attached:

1. MPEP 707.07(j) – referenced in (c)(1)(vi) VII on page 3 of this appeal.
2. Nochur Patent 5,835,758 Figure 6 – referenced in (c)(1)(vii) 1.1.3.1 on page 4.
3. Nochur Patent 5,835,758 Figure 8 – referenced in (c)(1)(vii) 1.1.3.5.3 on page 5;
   (c)(1)(vii) 1.6.2 on page 7; (c)(1)(vii) 1.6.3.3 on page 7; (c)(1)(vii) 1.6.4 on page 8.
4. Nochur Patent 5,835,758 Figure 7 – referenced in (c)(1)(vii) 1.6.2 on page 7.
5. Nochur Patent 5,835,758 COL 12 – referenced in (c)(1)(vii) 1.6.4 on page 8;
   (c)(1)(vii) 4.5.3 on page 13.
6. Sewell Patent Application 10/602,566 Figure 10 - referenced in (c)(1)(vii) 1.7.3 on
   page 8; (c)(1)(vii) 2.1.2 on page 9.
7. Sewell Patent Application 10/602,566 Figure 5 - referenced in (c)(1)(vii) 1.7.7 on
   page 9; (c)(1)(vii) 1.7.9 on page 10.

(c)(1)(x) *Related proceedings appendix* – The reviewers referenced some court proceedings but
didn't send me copies and I don't know where to find them nor do I use them.

MPEP 707.07(j) State When Claims Are Allowable [R-2]

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I. < INVENTOR FILED APPLICATIONS

When, during the examination of a *pro se* application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment.

This practice will expedite prosecution and offer a service to individual inventors not represented by a registered patent attorney or agent. Although this practice may be desirable and is permissible in any case deemed appropriate by the examiner, it will be expected to be applied in all cases where it is apparent that the applicant is unfamiliar with the proper preparation and prosecution   of   patent   applications.
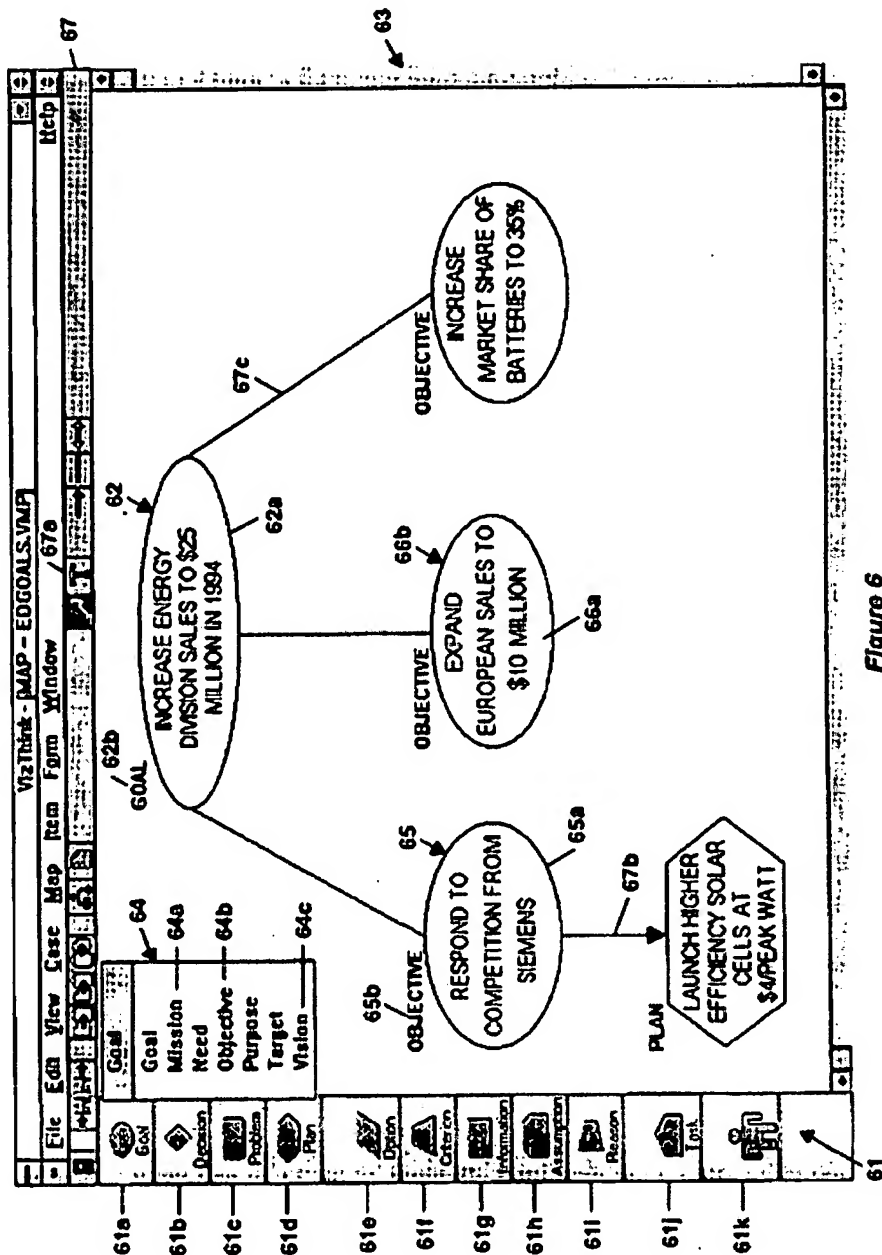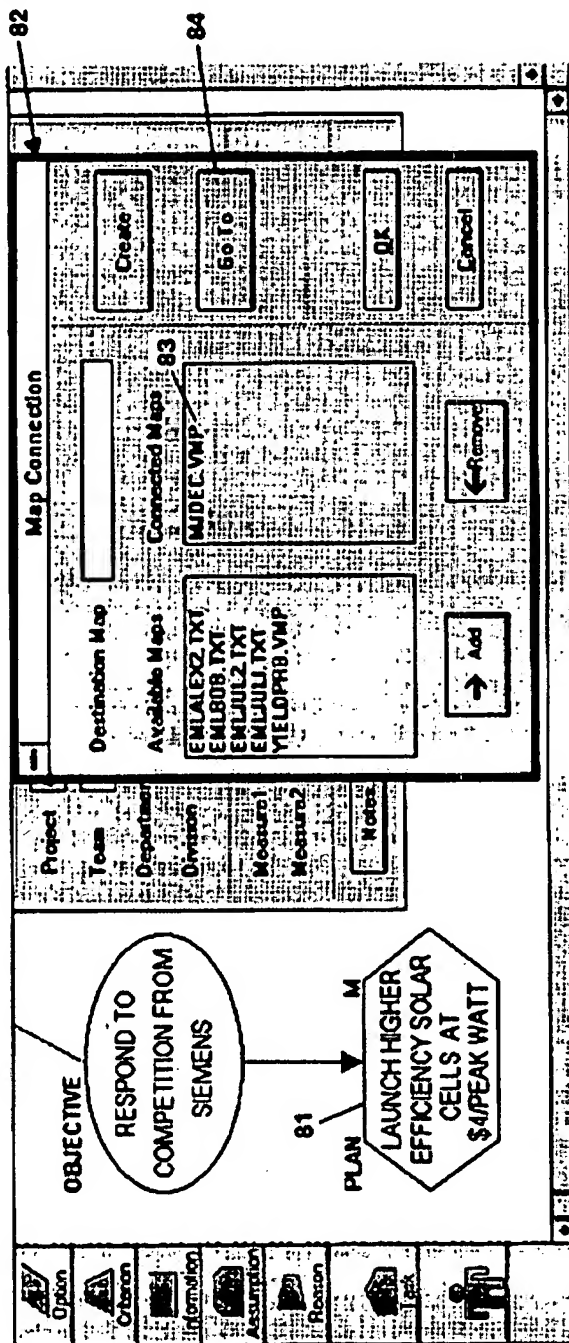
ATTACHMENT #2

Figure 6

ATTACHMENT #3

Figure 8

ATTACHMENT # 4

Figure 7

Press SPACEBAR or ENTER to activate and use this control

5,835,758

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shown in the drawings and are discussed herein. These examples are not intended to limit the invention. Other objects and advantages of the invention will become apparent from a consideration of the ensuing descriptions and accompanying drawings.

DETAILED DESCRIPTION—OPERATION OF A PARTICULAR EMBODIMENT

FIG. 6 is a screen shot illustrating a palette of elements with their symbols and main label, the indicia within one palette element, toolbar, menus, a map, items on a map, and links between the items, in one particular embodiment of the present invention. The domain of application is purposeful activities such as goal-setting, problem-solving, decision-making, planning, and action-implementation in individual, group, and organizational settings.

Palette 61 shows elements 61a through 61k with symbols and main labels representing the following entities of interest from the application domain: Goal 61a, Decision 61b, Problem 61c, Plan 61d, Option 61e, Factor 61f, Information 61g, Assumption 61h, Reason 61i, Task 61j, and People 61k. The user can create an instance Goal item, such as 62, with symbol 62a and label 62b, by selecting the Goal element 61a from palette 61 and dragging and dropping its outline on the map 63 at the desired location. Sub-labels or type labels can be examined by selecting that element in the palette 61 and then clicking the right button of the computer pointing device, such as a mouse. This operation opens a menu 64 that shows sub-labels such as Mission 64a, Objective 64b, and Vision 64c for Goal element 61a. By selecting a type of sub-label from menu 64, the user can create an item such as 65 with the element symbol ellipse 65a of the Goal class, but with the sub-label Objective 65b.

A powerful visual language emerges from the use of elements with symbols and class and type labels and from their common, shared usage and meaning. Even if class or type labels are not attached to an element symbol, palette 61 with its display of the symbols and class labels allows users to identify the label of an item by matching the item symbol with the symbols on the palette and then noting the palette's class label.

Users enter descriptive text, such as 66a, into an item, such as 66b after selecting the text mode icon 67a on tool bar 67. Text from existing computer-based documents, or from lists or text documents, can be transferred to an item on a map by first selecting the desired text, then selecting the desired element on palette 61, and then placing the cursor on the map where the item is to be located. Items can be connected with lines or arrows of various kinds, such as 67b and 67e to show how they are related in terms of sequence, cause-effect relationship, the flow of issues and ideas, hierarchy, etc.

An item such as Plan 71 in FIG. 7 can have data attributes such as Class 71a, Type 71b, Priority 71c, and Status 71d. Values for these attributes, such as 1 for Priority 71c, Ongoing for Status 71d can be entered in fields adjoining the attribute label in Item Attributes dialog box 72. Double clicking on an item on a map opens its attribute dialog box. The attributes of an item depend on the basic element category it belongs to. For example, a Goal item has attributes such as priority, dates related to its accomplishment, people responsible for it, key words, etc. Users can change attribute definition fields and screens to suit their needs. Notes and annotations can be added in a separate box belonging to each object. A visual cue, such as the letter N or a notepad icon will show up in the area around

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and close to an item to indicate that it has a non-blank Note attached to it. Double clicking on the cue will lead to the Note screen. Similarly, annotations are tagged and accessed through a visual cue or the letter A appearing in the region near the object.

Items on maps can be colored, shaded, highlighted, flashed, rendered static or dynamic, etc. in various ways and modes to draw attention to them, or to add visual information and significance based on their source, author, contents, links, attributes, status, and other properties. Further, areas or regions around an item can be made to hold fields that show specific information in a display mode. As an example, the user can have the priority code for each Goal show up in a specific field area adjacent to the item on a map. Information for such displays can be selected by the user and the display itself can be turned on or off at the user's discretion.

Users can attach items to each other with links or arrows of various kinds, to form links. Links show the connections and relations between the issues, represented as items on a map, in a situation. Links can be of various kinds, for example: straight, curved, or at right angles. They can also be labeled to show additional detail, or to describe various kinds of connections and the relations between the linked objects.

The basic document in the present invention is a map, comprised of one or more items and the links between them. A connection can be established between any item and another map or other kind of document. Once a connection is defined, for example between an item and a map, a visual cue, such as the letter M or a map icon, will appear in the area around and close to that item. The connected map can be invoked via the visual cue. Maps can be organized in a nested hierarchy to show or hide levels of detail. FIG. 8 shows a Plan item 81 next to which the letter M appears to indicate that one or more maps are attached to it. Double clicking on the M would lead to Map Connection dialog box 82 which shows the name of a connected map 83. Selecting the connected map's name and selecting Go To button 84 would lead the user to the connected map on the display screen. A single map can be of arbitrary virtual size, constrained by memory and other system characteristics, that can be physically laid out on the computer screen as a grid of pages. Connectors can be attached to show continuity between items or maps on virtual pages that are physically together, but are printed on separate pages. Operations relating to maps are controlled by map module 216 (in FIG. 2) which is described in detail in FIG. 3.

A number of related maps, with or without connections between their component items can be indexed or referenced in a folder called a case. Other documents such as Lists, Grids, Templates, etc. can also be included in a case. A case can also contain documents from applications external to the present invention, such as spreadsheets and electronic mail message. Multimedia items such as audio/video clips and images, icons, pictures, and graphics can also be attached to maps and cases. A visual cue, such as the letter D or a suitable icon, would show the existence of attached documents and other objects, and double clicking on the cue would provide access to those attached objects. A case can be an arbitrarily large collection of documents and other objects from both within and external to the present invention. FIG. 9 shows a case folder 91 and the list 91a through 91g of text and map documents included by reference in it. Selecting and double clicking on any of these documents would lead the user to that document. Cases are managed by case module 214 (in FIG. 2) described in detail in FIG. 4.
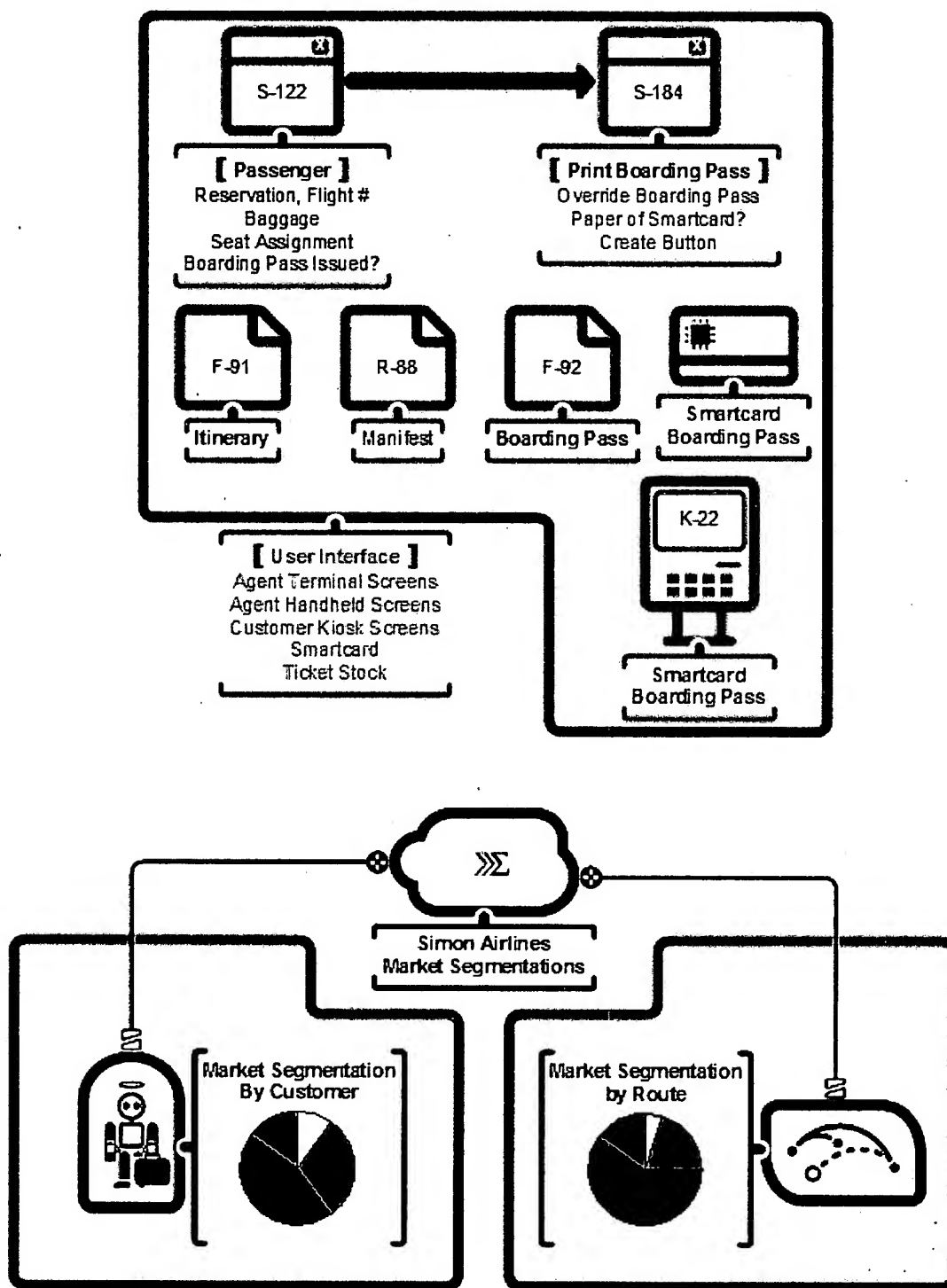
Over a networked client/server or peer-to-peer computer environment, maps, cases, and other documents of the

FIGURE 10 - GROUPING SHAPE (FENCE) EXAMPLES

Inventor:: Marc T. Sewell
Title:: TOOL AND NOTATION FOR CAPTURING AND COMMUNICATING ENTERPRISE AND TECHNOLOGY STRUCTURES, PROCESSES, STRATEGIES, AND CONCEPTS

FIGURE 5 – COLLECTION, CONTAINER, HIERARCHY

[Hierarchy]

Cockpit Crew Scheduling

▲ Function (FLT) Flight Operations
● Function (CRW) Flight Crew Scheduling
■ Function (CPC) Cockpit Crew Scheduling

The example shows:

a • **level adornment**

b • **level ids**

c • **level type; level id in bracket**

collection, plural adornment

Process, Activity, Flow adornment

Abstract Adornment

Fence, Group